

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY COPENHAGEN

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E.O.: 11652: N/A

TAGS: DA DA, MARR, AFIN

SUBJ: TAX STATUS OF THE COPENHAGEN AMERICAN
DEPENDENT SCHOOL

REFS: (A) STATE A-7842, 9/13/73

(B) COPENHAGEN 2550

1. DEPARTMENT DESIRES THAT AMERICAN DEPENDENT SCHOOL TAX
MATTER NOT BE COMBINED WITH A GENERAL EFFORT FOR DIPLOMATIC
AND CONSULAR TAX RELIEF FROM "MOMS" (VALUE ADDED TAX (VAT)).
THIS DECISION RESTS ON THE FOLLOWING CONSIDERATIONS:

(A) TAX RELIEF FOR THE DEPENDENT SCHOOL IS WELL
ESTABLISHED UNDER AGREEMENT ON RELIEF FROM TAXATION ON
DEFENSE EXPENDITURES OF APRIL, 1952 (TIAS 2546) AND THE
OFFSHORE PROCUREMENT AGREEMENT OF 1954 (TIAS 3987). THESE
AGREEMENTS PROVIDE A FIRM LEGAL BASIS FOR EXEMPTION FOR
USG DEFENSE-RELATED EXPENDITURES. SUCH A STRONG POSITION
SHOULD, THEREFORE, NOT BE DILUTED BY MINGLING IT WITH THE
LESS CLEAR CASE FOR DIPLOMATIC TAX RELIEF UNDER THE 1961
VIENNA CONVENTION ON DIPLOMATIC RELATIONS.

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(B) AS SUGGESTED ABOVE, OUR LEGAL BASIS FOR DIPLOMATIC EXEMPTION FROM "MOMS" STEMS FROM ARTICLE 34 OF THE VIENNA CONVENTION. THAT ARTICLE EXCEPTS FROM EXEMPTION "INDIRECT TAXES OF A KIND WHICH ARE NORMALLY INCORPORATED IN THE PRICE

OF GOODS OR SERVICES." MANY VAT COUNTRIES, WHILE INSISTING THAT VAT IS AN INDIRECT TAX, HAVE GRANTED EXEMPTIONS FROM VAT FOR CERTAIN DIPLOMATIC EXPENDITURES. MOREOVER, EEC COUNCIL IS CONSIDERING AN EC COMMISSION DRAFT DIRECTIVE ON HARMONIZATION OF VAT TAXES WHICH, IF ADOPTED, COULD OPEN THE WAY TO OBTAIN DIPLOMATIC EXEMPTION. DEPARTMENT HAS WITHHELD ADOPTING A POSITION ON VAT WITH REGARD TO DIPLOMATIC AND CONSULAR EXPENDITURES PENDING EEC HARMONIZATION DECISION AND REVIEW OF A STUDY ON THE IMPACT OF VAT ON USG DIPLOMATIC AND CONSULAR EXPENDITURES ABROAD NOW IN PREPARATION BY A SUBCOMMITTEE OF INTERAGENCY COMMITTEE ON FOREIGN TAX RELIEF. THUS ANY OVERTURES TO DANISH GOVERNMENT AT THIS TIME WOULD BE PREMATURE.

2. EMBASSY SHOULD PROCEED WITH ITS EFFORTS TO SEEK VAT EXEMPTION FOR DEPENDENTS SCHOOL, DRAWING ON LEGAL POSITION TRANSMITTED BY REF (A) AND IN ACCORDANCE WITH GUIDANCE OF THIS MESSAGE. KISSINGER

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